

**§ 15A-1340.16B. Life imprisonment without parole for a second or subsequent conviction of a Class B1 felony if the victim was 13 years of age or younger and there are no mitigating factors.**

(a) If a person is convicted of a Class B1 felony and it is found as provided in this section that: (i) the person committed the felony against a victim who was 13 years of age or younger at the time of the offense and (ii) the person has one or more prior convictions of a Class B1 felony, then the person shall be sentenced to life imprisonment without parole.

(b), (c) Repealed by Session Laws 2003-378, s. 3, effective August 1, 2003.

(d) An indictment or information for the Class B1 felony shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that the defendant committed the felony against a victim who was 13 years of age or younger at the time of the felony and that the defendant had one or more prior convictions of a Class B1 felony. One pleading is sufficient for all Class B1 felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. The issues shall be presented in the same manner as provided in G.S. 15A-928(c). If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (a) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (a) of this section does not apply if there are mitigating factors present under G.S. 15A-1340.16(e). (1998-212, s. 17.16(a); 2003-378, s. 3.)